

REMARKS

Attached hereto is a petition and fee for three excess total claims.

Applicants gratefully acknowledge Examiner Truong for taking time from her busy schedule to conduct an after-final telephone interview with Applicants' representative on February 8, 2007. The interview is considered as having been constructive in expediting prosecution.

During that interview, Applicants' representative pointed out that the present invention would seem to differ from the cited reference Richard by at least:

- the restore section 43 in the server (Figure 1), by which the present invention could selectively reboot/reconfigure a target PC via the Internet, without using a boot disk locally at the PC;
- the kernel image 46 in the server (Figure 1), by which the OS is constructed for the backed up PC by using a selected one of various OS kernels stored on the server, having received the kernel parameter from the computer to be backed up; and
- the ability of the present invention to backup and/or reboot/reconfigure a PC selectively from any of a plurality of backup designations.

The Examiner indicated that identification of these aspects of the present invention would require additional consideration so that a new issue would clearly be raised if they were to be included in an After-Final Amendment as the next response to the rejection currently of record. Therefore, the Examiner suggested that prosecution would be expedited if Applicants would file an RCE as part of the next response, rather than filing an After-Final Amendment only to receive an Advisory Action indicating that a new issue has been raised.

Claims 1-23 are all the claims presently pending in the application. New claims 21-23 are added. Claims 1-3, 9, and 11-13 have been amended to more particularly define the invention.

It is noted that Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claim 11 stands rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing the written description requirement. Although Applicants do not agree that the original specification lacks support for a signal-bearing medium containing the program, they have deleted the reference to such medium in the claim, in accordance with Examiner Truong's

helpful suggestion.

Claims 1-20 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent Publication No. US 2001/0056425 to Richard.

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

As described and defined in, for example, independent claim 1, the claimed invention is directed to a backup system for backing up a hard disk of a computer which is connected to a server via a network. The server includes a boot OS creation section adapted to create a boot OS for only the computer.

A backup section is adapted to store as a file the contents of the hard disk, inclusive of a system region, in the computer into a designated backup destination regardless of a type of an OS installed and a type of a file system. The designated backup destination is selective and can comprise any of a plurality of potential backup destinations.

A management information database is adapted to store therein management information of the computer. A kernel image is adapted to serve for the creation of the boot OS.

Thus, the present invention relates to a backup system capable of easily performing backup into a designate backup destination and optionally restore operation of an entire HD, inclusive of the system region, and regardless of the type of OS installed thereon.

Conventionally, as explained on page 1 of the specification, when the contents of the system region of a hard disk on a computer is backed up, it is impossible to perfectly store the system region because this region may often be updated even during the backup operation. Also, since the capacity of a backup destination must be checked at all times during the backup operation and because there is the possibility the content of the current hard disk is destroyed, it is difficult for a general user to backup the entire region of the hard disk.

The claimed invention, on the other hand, provides a backup system capable of easily executing or performing backup and/or restore operations of the entire hard disk, inclusive of the system region and regardless of the type of OS installed.

II. THE PRIOR ART REJECTION

The Examiner alleges that Richard teaches the claimed invention. Applicants submit, however, as discussed during the above-mentioned telephone interview that there are

elements of the claimed invention which are neither taught nor suggested by Richard.

More specifically, in contrast to Richard's method of backing up the contents of a hard disk on a PC, the present invention includes the capability to designate which of several possible backup designations will be used. This feature allows the backup to be stored on a local memory device or remotely at the server.

Hence, turning to the clear language of the claims, in Richard there is no teaching or suggestion of: "... said designated backup destination selectively comprising any of a plurality of potential backup destinations", as required by independent claim 1. The remaining independent claims have similar language.

Moreover, as discussed during telephone interview and indicated in dependent claim 2 (as well as independent claim 3), the present invention includes the capability to permit the recovery to be executed in manner other than using a recovery CD locally. That is, the server of the present invention includes "...a restore section adapted to restore the content of said hard disk into the same hard disk or a new hard disk in said computer or into a hard disk of another computer by using the file which has been stored as a file by said backup section." This remote restore capability is not suggested in Richard.

Therefore, Applicants submit that there are elements of the claimed invention that are not taught or suggest by Richard, and the Examiner is respectfully requested to withdraw this rejection.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-23, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

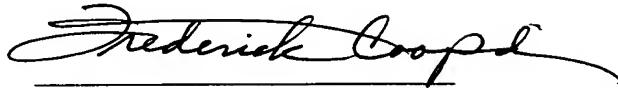
Serial No. 10/613,092
Docket No. TE012, ORI.073

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date:

2/20/07



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